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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,399	08/01/2000	David A. Selby	RSW9-2000-0094-US1	5648

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EXAMINER

DIXON, THOMAS A

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/628,399

Applicant(s)

SELBY, DAVID A.

Examiner

Thomas A. Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-26 is/are allowed.
- 6) ☒ Claim(s) 1-13 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-13, 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Specifically, the claims are not in the technological arts. The method does not employ or manipulate any apparatus and is therefore not seen to be in the technological arts.

Allowable Subject Matter

2. Claims 14-26 are allowable.
3. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record, specifically Jung ('936) in view of Sharp (JP 06176038) does not disclose:

- calculating, based on said comparison, the likelihood that said wait-listed reservations will materialize if promoted to reserved status;
- ordering said wait-listed reservations based on their likelihood of materialization;
- outputting said ordered wait-listed reservations.

Jung ('936) discloses:

- gathering past reservation information relating to past reservations for perishable commodities that have already perished, see figure 1 (10);

- gathering wait list reservation information relating to wait listed reservations for perishable commodities that have not yet perished, see column 1, line 65 – column 2, line 14;

- comparing past reservation information and said wait list reservation information, see column 2, lines 41-49;

Jung does not disclose:

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calculating, based on said comparison, the likelihood that said wait-listed reservations will materialize if promoted to reserved status;
ordering said wait-listed reservations based on their likelihood of materization;
outputting said ordered wait-listed reservations.

Sharp teaches a wait list promotion system based on what appears to be "the ten minute rule" mentioned in Jung, but does not disclose calculating based on comparison of past information and reservation information the likelihood of materialization.

Applicant's disclosure, page 7, line 12 – page 8, line 11 hint at a prior art method for promoting wait listed potential purchasers, but does not disclose calculating based on comparison of past information and reservation information the likelihood of materialization.

Prior Art Made of Record

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walker et al teaches that airlines do not use standby often, because it's expensive.

Ng et al "The strategic role of unused service capacity" is the closest non-patent literature which discloses overbooking and of perishable assets.

Arrendell "AAL waitlist policy change is instituted" is also a non-patent reference to airline reservations and overbooking of perishable seats.

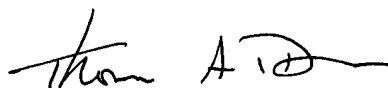
JP 06176038 (English abstract) is the closest foreign reference that teaches automatically advances reservation ranking of for no-shows.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'Thomas A. Dixon'.

Thomas A. Dixon
Examiner
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February 24, 2003